

Calendar No. 103

103D CONGRESS
1ST SESSION

S. 577

[Report No. 103-65]

A BILL

To resolve the status of certain lands relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

JUNE 23 (legislative day, JUNE 22), 1993

Reported with amendments

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IN THE SENATE OF THE UNITED STATES

MARCH 11 (legislative day, MARCH 3), 1993

Mrs. FEINSTEIN introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JUNE 23 (legislative day, JUNE 22), 1993

Reported by Mr. JOHNSTON, with amendments

[Omit the part struck through and insert the part printed in *italic*]

A BILL

To resolve the status of certain lands relinquished to the United States under the Act of June 4, 1897 (30 Stat. 11, 36), and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. FINDINGS AND PURPOSE.**

4 (a) FINDINGS.—Congress finds the following:

1 (1) Pursuant to the invitation and requirements
2 contained in the 15th paragraph under the heading
3 “Surveying the Public Lands” in the Act of June 4,
4 1897 (30 Stat. 11, 36), as amended or supple-
5 mented by the Acts of June 6, 1900 (31 Stat. 588,
6 614), March 4, 1901 (31 Stat. 1010, 1037), and
7 September 22, 1922 (42 Stat. 1067), certain land-
8 owners or entrymen within forest reserves acted to
9 transfer their lands to the United States as the basis
10 for an in lieu selection of other Federal lands (here-
11 after in this Act referred to as “lieu lands”) in ex-
12 change for such lands within such reserves (here-
13 after in this Act referred to as “base lands”).

14 (2) By the Act of March 3, 1905 (33 Stat.
15 1264), Congress repealed the in lieu selection provi-
16 sions of the Act of June 4, 1897, as amended, and
17 terminated the right to select lieu lands, but ex-
18 pressly preserved the rights of land owners who had
19 valid pending applications for in lieu selections, most
20 of which have subsequently been granted.

21 (3) Other persons affected by the Acts cited in
22 paragraphs (1) and (2) who acted to transfer base
23 lands, or their successors in interest, have never ob-
24 tained either (A) a patent to the lieu lands or any
25 other consideration for their relinquishment, or (B)

1 a quitclaim of their base lands, notwithstanding re-
2 lief legislation enacted in 1922 and 1930.

3 (4) By the Act of July 6, 1960 (74 Stat. 334),
4 Congress established a procedure to compensate per-
5 sons affected by the Acts cited in paragraphs (1)
6 and (2) who had not received appropriate relief
7 under prior legislation. However, no payments of
8 such compensation were made under that Act.

9 (5) Section 4 of the Act of July 6, 1960, fur-
10 ther provided that lands with respect to which com-
11 pensation under that Act were or could have been
12 made, and not previously disposed of by the United
13 States, shall be a part of any national forest, na-
14 tional park, or other area withdrawn from the public
15 domain wherein they are located.

16 (6) Absent further legislation, lengthy and ex-
17 pensive litigation will be required to resolve existing
18 questions about the title to lands covered by section
19 4 of the 1960 Act.

20 (b) PURPOSE.—The purpose of this Act is to resolve
21 the status of the title to base lands affected by the past
22 legislation cited in subsection (a).

1 **SEC. 2. IDENTIFICATION AND QUITCLAIM OF FEDERAL IN-**
2 **TEREST IN BASE LANDS.**

3 (a) QUITCLAIM.—Except as otherwise provided by
4 this Act, and subject to valid existing rights, but notwith-
5 standing any other provision of law, the United States
6 hereby quitclaims to the listed owner or entryman, his
7 heirs, devisees, successors, and assigns, all right, title, and
8 interest of the United States in and to the base lands de-
9 scribed on a final list published pursuant to subsection
10 (d)(1), effective on the date of publication of such list.

11 (b) PREPARATION OF INITIAL LISTS.—(1) Not later
12 than 6 months after the date of enactment of this Act,
13 the Secretary of the Interior, with respect to lands under
14 such Secretary's jurisdiction, and the Secretary of Agri-
15 culture with respect to National Forest System lands,
16 shall each prepare an initial list of all parcels of base lands
17 that were relinquished to the United States pursuant to
18 the Act of June 4, 1897 (as amended), and for which se-
19 lection or other rights under that Act or supplemental leg-
20 islation were not realized or exercised.

21 (2) The initial lists prepared under paragraph (1)
22 shall be based on information in the actual possession of
23 the Secretaries of the Interior and Agriculture on the date
24 of enactment of this Act, including information submitted
25 to Congress pursuant to the directive contained in Senate
26 Report No. 98–578, issued for the Fiscal Year 1985 Inte-

rior and Related Agencies Appropriation, as revised and updated. The initial lists shall be published and distributed for public review in accordance with procedures adopted by the Secretary concerned.

(3) For a period of 180 days after publication of a list pursuant to paragraph (2), persons asserting that particular parcels omitted from such a list should have been included may request the Secretary concerned to add such parcels to the appropriate list. The Secretary concerned shall add to the list any such parcels which the Secretary determines meet the conditions specified in paragraph (1).

(c) **NATIONALLY SIGNIFICANT LANDS.**—(1) During preparation or revision of an initial list under subsection (b), the Secretary concerned shall identify those listed lands which are located wholly or partially within any conservation system unit and all other listed lands which Congress has designated for specific management or which the Secretary concerned decides, in the concerned Secretary's *sole* discretion, should be retained in order to meet public, resource protection, or administrative needs. For purposes of this paragraph, the term "conservation system unit" means any unit of the National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, or National Wilderness Preservation System, a national forest monument, or a na-

1 tional conservation area, a national recreation area, or any
2 lands being studied for possible designation as part of
3 such a system or unit.

4 (2) The provisions of subsection (a) shall not apply
5 to any lands identified by the Secretary concerned pursu-
6 ant to paragraph (1). The Secretary concerned shall not
7 include any such lands on any list prepared pursuant to
8 subsection (d). Subject to valid existing rights arising
9 from factors other than those described in subsection
10 (b)(1), any right, title, and interest in and to lands identi-
11 fied pursuant to paragraph (1) and not previously vested
12 in the United States is hereby vested and confirmed in
13 the United States.

14 (3) In the same manner as the initial list was pub-
15 lished and distributed pursuant to subsection (b)(2), the
16 Secretary concerned shall publish and distribute an identi-
17 fication of all lands in which right, title, and interest is
18 vested and confirmed in the United States by paragraph
19 (2).

20 (d) FINAL LISTS.—(1) As soon as possible after con-
21 sidering any requests made pursuant to subsection (b)(3)
22 and the identification of lands pursuant to subsection (c),
23 the Secretary of the Interior and the Secretary of Agri-
24 culture shall each publish a final list, consisting of lands
25 included on each Secretary's initial list not identified pur-

1 suant to subsection (c)(1). Unless a Secretary has pub-
 2 lished a final list on or before the date ~~18~~ 24 months after
 3 the date of publication, pursuant to subsection (b)(2), of
 4 such Secretary's initial list, the initial list prepared by
 5 such Secretary shall be deemed on such date to be the
 6 final list required to be published by such Secretary, and
 7 thereafter no lands included on such initial list shall be
 8 excluded from operation of subsection ~~(a)~~. *(a) except lands*
 9 *located wholly or partially within a conservation system*
 10 *unit or any other area which Congress has designated for*
 11 *specific management.*

12 (2) If *after publication of a final list* a court makes
 13 a final decision that a parcel of land was arbitrarily and
 14 capriciously excluded from ~~operation of subsection (a)~~, *an*
 15 *initial list as provided by subsection 2(b)*, such parcel shall
 16 be deemed to have been included on a final list published
 17 pursuant to paragraph (1), unless such parcel is located
 18 wholly or partially inside a conservation system unit or
 19 any other area which Congress has designated for specific
 20 management, in which case such parcel shall be subject
 21 to the provisions of subsection (c)(2).

22 (e) ISSUANCE OF INSTRUMENTS.—(1) Except as oth-
 23 erwise provided in this Act, no later than 6 months after
 24 the date on which the Secretary concerned publishes a
 25 final list of lands pursuant to subsection (d), the Secretary

1 concerned shall issue ~~deeds~~ *documents of disclaimer of in-*
2 *terest* confirming the quitclaim made by subsection (a) of
3 this section of all right, title, and interest of the United
4 States in and to the lands included on such final list, sub-
5 ject to valid existing rights arising from factors other than
6 a relinquishment to the United States of the type de-
7 scribed in subsection (b). Each such confirmatory ~~deed~~
8 *document of disclaimer of interest* shall operate to estop
9 the United States from making any claim of right, title,
10 or interest of the United States in and to the base lands
11 described in the ~~deed~~ *document of disclaimer of interest*,
12 shall be made in the name of the listed owner or entryman,
13 his heirs, devisees, successors, and assigns, and shall be
14 in a form suitable for recordation and shall be filed and
15 recorded by the United States with the recorder of deeds
16 or other like official of the county or counties within which
17 the lands covered by such confirmatory ~~deed~~ *document of*
18 *disclaimer of interest* are located so that the title to such
19 lands may be determined in accordance with applicable
20 State law.

21 (2) The United States shall not adjudicate and, not-
22 withstanding any provision of law to the contrary, does
23 not consent to be sued in any suit instituted to adjudicate
24 the ownership of, or to quiet title to, any base land in-

1 cluded in a final list and described in a confirmatory ~~deed~~
 2 *document of disclaimer of interest* .

3 (3) Neither the Secretary of the Interior nor the Sec-
 4 retary of Agriculture shall be required to inspect any lands
 5 included on a final list nor to inform any member of the
 6 public regarding the condition of such lands prior to the
 7 issuance of the confirmatory ~~deeds~~ *documents of disclaimer*
 8 *of interest* required by this subsection, and nothing in this
 9 Act shall be construed as affecting any valid rights with
 10 respect to lands covered by a confirmatory ~~deed~~ *document*
 11 *of disclaimer of interest* deed issued pursuant to this sub-
 12 section that were in existence on the date of issuance of
 13 such confirmatory ~~deed~~ *document of disclaimer of interest*.

14 (4) *For purposes of this Act, the term “document of*
 15 *disclaimer of interest” means a memorandum or other doc-*
 16 *ument, however styled or described, that references the quit-*
 17 *claim made by subsection (a) of this section and that meets*
 18 *the requirements for recordation established by applicable*
 19 *laws of the State in which the lands to which such document*
 20 *refers are located.*

21 (f) WAIVER OF CERTAIN CLAIMS AGAINST THE
 22 UNITED STATES.—Any person or entity accepting the
 23 benefits of this Act or failing to act to seek such benefits
 24 within the time allotted by this Act with respect to any
 25 base or other lands shall be deemed to have waived any

1 claims against the United States, its agents or contrac-
2 tors, with respect to such lands, or with respect to any
3 revenues received by the United States from such lands
4 prior to the date of enactment of this Act. All non-Federal,
5 third party rights granted by the United States with re-
6 spect to base lands shall remain effective subject to the
7 terms and conditions of the authorizing document. The
8 United States may reserve any rights-of-way currently oc-
9 cupied or used for Government purposes.

10 **SEC. 3. OTHER CLAIMS.**

11 (a) JURISDICTION AND DEADLINE.—(1) Subject to
12 the requirements and limitations of this section, a party
13 claiming right, title, or interest in or to land vested in the
14 United States by section 2(c)(2) of this Act may file in
15 the United States Claims Court a claim against the United
16 States seeking compensation based on such vesting. Not-
17 withstanding any other provision of law, the Claims Court
18 shall have exclusive jurisdiction over such claim.

19 (2) A claim described in paragraph (1) shall be
20 barred unless the petition thereon is filed within 1 year
21 after the date of publication of a final list pursuant to
22 section 2(d) of this Act.

23 (3) Nothing in this Act shall be construed as author-
24 izing any claim to be brought in any court other than a
25 claim brought in the United States Claims Court based

1 upon the vesting of right, title, and interest in and to the
2 United States made by section 2(c)(2) of this Act.

3 (b) LIMITATIONS, DEFENSES, AND AWARDS.—(1)
4 Nothing in this Act shall be construed as diminishing any
5 existing right, title, or interest of the United States in any
6 lands covered by section 2(c), including but not limited
7 to any such right, title, or interest established by the Act
8 of July 6, 1960 (74 Stat. 334).

9 (2) Nothing in this Act shall be construed as preclud-
10 ing or limiting any defenses or claims (including but not
11 limited to defenses based on applicable statutes of limita-
12 tions, affirmative defenses relating to fraud or speculative
13 practices, or claims by the United States based on adverse
14 possession) otherwise available to the United States.

15 (3) Nothing in this Act shall be construed as entitling
16 any party to compensation from the United States. How-
17 ever, in the event of a final judgment of the United States
18 Claims Court in favor of a party seeking such compensa-
19 tion, or in the event of a negotiated settlement agreement
20 made between such a party and the Attorney General of
21 the United States, the United States shall pay such com-
22 pensation from the permanent judgment appropriation es-
23 tablished pursuant to section 1304 of title 31, United
24 States Code.

1 (c) SAVINGS CLAUSE.—This Act does not include
2 within its scope selection rights required to be recorded
3 under the Act of August 5, 1955 (69 Stat. 534), regard-
4 less of whether compensation authorized by the Act of Au-
5 gust 31, 1964 (78 Stat. 751) was or was not received.

6 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

7 There are authorized to be appropriated such sums
8 as may be necessary to carry out this Act.